In the High Court for the States of Punjab and Haryana, at Chandigarh.

F.A.O.No. 1086 of 1987
Decided on Nov 01,2006.

The Secretary,Khadi Gram Udyog Mandal,
Patti, Amritsar and another --Appellants

vs.

Harbans Kaur and others --Respondents

Present: Ms.Vandana Malhotra,Advocate,for the appellants

None for the respondents.

Pritam Pal J:(Oral)

This joint appeal, by owner of Four Wheeler and Insurer, namely National Insurance Company Ltd, has been filed against the award dated May 23, 1987, whereby a total compensation of Rs.96,000/- was given to respondent Nos. 1 to 3,namely Harbans Kaur, widow, Gur Kanwal Singh and Gurdev Singh, sons of Darshan Singh-since deceased.

In nut-shell, it is suffice to say that on November 16,1984, at about 5.30.p.m., Darshan Singh-since deceased was going on a bicycle from Patti to Dassuwal, falling in the area of Police Station,Patti. When he reached 2 k.ms. away from Patti, one four wheeler bearing registration No. PBE-2960 owned by Khadi Gram Udyog Mandal, came there being driven rashly and negligently by it's driver Dalbir Singh and struck against the cycle, as a result of which, he received injuries on his head and ultimately expired in the hospital on the next date. The

deceased was an ex-serviceman and was getting Rs. 300/- p.m. as pension. Besides that he was earning Rs. 800/900 p.m, from the business of commission agent which was partnership concern with one Mohinder Singh at Amar Kot.

The appellants had denied the aforesaid source of income of the deceased. However, the occurrence of the accident was admitted.

Learned Claim Tribunal, after recording the evidence and hearing learned counsel for the parties, had held that the accident in question had taken place due to rash and negligent driving of respondent No.4-Dalbir Singh,driver of the offending vehicle,owned by appellant No.1 and further insured with appellant No.2 The total monthly dependency of the claimants/respondent Nos. 1 to 3 was assessed only at Rs. 500/-, which comes to Rs. 6000/-p.a. Ultimately, a multiplier of 16 was applied and a total compensation of Rs. 96,000/- was awarded.

The only contention of learned counsel for the appellants is that in this case, a multiplier as well as the annual dependency of the claimants has been assessed at a higher side. In support of his this contention, learned counsel has relied upon a judgment reported as Tamil Nadu State Transport Corporation Limited v. S. Rajapriya and others, 2005 (II) P.L.R 650, and then contended that in a case of deceased, who was 38 years of age, a multiplier applied at 16, while granting compensation, was reduced to 12. No doubt, in the instant case, age of the deceased is 53 years and keeping in view the ratio of the cited ruling, multiplier applied by the learned Tribunal, appears to be on a

higher side,but at the same time, in the given facts and circumstances of the case, annual dependency of the claimants appears to be on lower side. Admittedly, the deceased was an ex-serviceman and was possessing a very good health. He was working as a commission agent in a partnership with one Mohinder Singh. In this way, partnership deed Ex. AW3-1 is also there on the file. There is an ample and cogent evidence consisted in the statements of AW-2 Paramjit Singh and AW-4 Gur Kanwal Singh that the deceased was a commission agent at Amar Kot . There were three claimants i.e. one widow and two sons of the deceased, who were dependents upon him at the time of accident.

Thus, taking into account the aforesaid facts and circumstances, total award passed by the learned Tribunal, is held to be reasonable and justified. Moreover, The present joint appeal filed by the Owner and Insurer, is admittedly, not maintainable.

When confronted with this legal position, learned counsel for the appellants Ms. Vandana Malhotra, submitted that this appeal may be deemed to have been filed on behalf of Insurer only. Even then, Insurer could file this appeal taking the ground specified under Section 149 (ii) of the Motor Vehicles Act, 1988, but no such ground as mentioned there-under has been raised by learned counsel for the appellants.

Thus, taking an over-all view of the matter, this appeal is liable to be dismissed. I order accordingly.

Nov 01,2006, (Pritam Pal)
RR Judge